

Appl. No. 10/719,799
Atty. Docket No. 9438Q
Amdt. dated 23 February, 2006
Reply to Office Action of November 23, 2005
Customer No. 27752

REMARKS

Claim Status

Claims 1-13 are pending in the present application. No additional claims fee is believed to be due.

Applicant's Attorney would like to thank the Examiner for the Interview of February 8, 2006, during which the 35 U.S.C. §102(b) rejection over U.S. 2002/0151859 (Schoelling) was discussed.

Rejection Under 35 U.S.C. §102(b) Over U.S. 2002/0151859 (Schoelling)

Claims 1-13 have been rejected under 35 U.S.C. §102(b) as being anticipated by Schoelling.

With respect to the novelty of claims 1-13: The Office Action of November 23, 2005 states that the tampon of Schoelling has a first side wall dimension that differs from the second side wall dimension in that the first and second side wall dimensions of Schoelling are on opposite sides of the angle there between. Applicant respectfully disagrees with this contention. The side wall dimensions of the tampon of Schoelling would not be different due to the reason that they are on opposite sides of the angle there between. In the response of September 8, 2005 Applicant amended claim 1 to include the phrase, "...wherein said first side wall dimension (of the recessed portions) differs from said second side wall dimension (of the recessed portions)..." The Specification defines a first side wall dimension as, "A wall dimension 32 extends between the proximal end 29 of the first side wall 21 and the distal end of the 31 of the first side wall 21." (Spec. Page 7, Lines 8-9) The Specification defines a second side wall dimension as, "A wall dimension 35 extends between the proximal end 33 of the second side wall 27 and the distal end 34 of the second side wall 27." (Spec. Page 7, Lines 10-12) Therefore, a wall dimension defines the length of a recessed portion wall as measured from the proximal end to the distal end, and the new claim language states that those measurements differ between the first and second recessed portion sidewalls.

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Applicant cannot locate any support in the Specification of Schoelling for the assertion that the tampon of Schoelling has a first side wall dimension that differs from the second side wall dimension. Further, as shown in Figures 1, 3 and 4 of Schoelling the longitudinal grooves in the tampon have constant dimensions of length and width. Specifically, as shown in Figures 3 and 4 the side walls of the longitudinal grooves are of a single proximal to distal length along the span of the longitudinal grooves. Figure 4 shows a cross section of the tear shaped grooves with the opposing walls the same length, as compared to Figure 2 of the present invention, which shows the first and second sidewalls having different lengths. Figure 3 does not show different lengths of the sidewalls of the grooves, but rather the opening of the grooves in the insertion end that are otherwise covered by the longitudinal ribs along the body of the tampon. This is supported in Schoelling, "As a result of the fact that the outer ends lying against one another of the side flanks 44 of the adjacent longitudinal ribs 40 close to the longitudinal grooves 42 only at the circumferential surface 46 of the tampon 30, the longitudinal grooves 42 form in each case eight closed spiral guide ducts 50 (FIG. 4) which are in each case preferably open only at the insertion end 32 and at the recovery end 34 (the openings at the insertion end 32 are visible in FIG. 3). (Page 3, Paragraph 0039) Therefore, Schoelling does not disclose or teach a tampon wherein the recessed portions have a first side wall dimension that differs from the second side wall dimension.

Accordingly, the Applicant respectfully submits that claim 1 and its dependent claims 2-13 are novel over Schoelling and the rejection should be withdrawn

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 U.S.C. §102(b). Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of

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the foregoing, reconsideration of this application and allowance of Claims 1-13 is respectfully requested.

Respectfully submitted,

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